

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN CASTRO and JOYCE CASTRO,

Plaintiffs,

v.

19-CV-279 (JLS)

COLGATE-PALMOLIVE COMPANY,
et al.,

Defendants.

DECISION AND ORDER

On February 28, 2019, Plaintiffs John Castro and Joyce Castro commenced this products liability action against Defendants in state court, alleging that John Castro was diagnosed with mesothelioma as a result of his exposure to asbestos from his use of asbestos-contaminated talc products. *See* Dkt. 1-2, Exh. A. The next day, on March 1, 2019, Defendants Johnson & Johnson, Johnson Consumer Companies, Inc., and Johnson & Johnson Health and Wellness Solutions, Inc. removed the case to this Court before any defendant, including the removing defendants, had been served. Dkt. 1. The Castros objected to this “snap removal” by filing a motion to remand to state court on March 22, 2019. Dkt. 15. On January 27, 2020, this Court referred the case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Dkt. 71.

On April 29, 2020, Judge Scott issued a Report and Recommendation (“R&R”) recommending that the motion to remand be denied. Dkt. 90, at 2. The parties did

not object to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

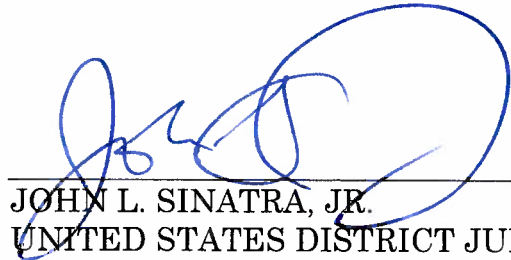
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's recommendation to deny Plaintiffs' motion to remand in light of the Second Circuit's decision in *Gibbons v. Bristol-Myers Squibb Co.*, 919 F.3d 699 (2d Cir. 2019), which Judge Scott discussed at length in the R&R.

For the reasons stated above and in the R&R, Plaintiffs' motion to remand, Dkt. 15, is DENIED. The case is referred back to Judge Scott for further proceedings consistent with the referral order of January 27, 2020, Dkt. 71.

SO ORDERED.

Dated: June 2, 2020
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE